

SSB 5097 - S AMD 8
By Senator Parlette

NOT ADOPTED 02/02/2005

1 On page 3, after line 26, insert the following:

2 "Sec. 4. RCW 49.04.010 and 2001 c 204 s 1 are each amended to read
3 as follows:

4 (1) The director of labor and industries shall appoint an
5 apprenticeship council, composed of three representatives each from
6 employer and employee organizations, respectively. The terms of office
7 of the members of the apprenticeship council first appointed by the
8 director of labor and industries shall be as follows: One
9 representative each of employers and employees shall be appointed for
10 one year, two years, and three years, respectively. Thereafter, each
11 member shall be appointed for a term of three years. The governor
12 shall appoint a public member to the apprenticeship council for a
13 three-year term. The appointment of the public member is subject to
14 confirmation by the senate. Each member shall hold office until a
15 successor is appointed and has qualified and any vacancy shall be
16 filled by appointment for the unexpired portion of the term. A
17 designated representative from each of the following: The work force
18 training and education coordinating board, state board for community
19 and technical colleges, employment security department, and United
20 States department of labor, apprenticeship, training, employer, and
21 labor services, shall be ex officio members of the apprenticeship
22 council. Ex officio members shall have no vote. Each member of the
23 council, not otherwise compensated by public moneys, shall be
24 reimbursed for travel expenses in accordance with RCW 43.03.050 and
25 43.03.060 and shall be compensated in accordance with RCW 43.03.240.

26 (2)(a) The apprenticeship council is authorized to: (i) Approve
27 apprenticeship programs, subject to the procedural requirements
28 contained in (d) of this subsection; and (ii) establish apprenticeship
29 program standards as rules, including requirements for apprentice-

1 related and supplemental instruction, coordination of instruction with
2 job experiences, and instructor qualifications.

3 (b) The council shall consider recommendations from the state board
4 for community and technical colleges on matters of apprentice-related
5 and supplemental instruction, coordination of instruction with job
6 experiences, and instructor qualifications. The rules for
7 apprenticeship instructor qualifications shall either be by reference
8 or reasonably similar to the applicable requirements established by or
9 pursuant to chapter 28B.50 RCW.

10 (c) The council is further authorized to issue such rules as may be
11 necessary to carry out the intent and purposes of this chapter,
12 including a procedure to resolve an impasse should a tie vote of the
13 council occur, and perform such other duties as are hereinafter
14 imposed.

15 (d)(i) An objection to a proposed apprenticeship program shall be
16 considered by the council only if the objection is timely submitted in
17 accordance with this section and rules established by the council, and
18 clearly identifies an issue that is within the jurisdiction of the
19 council to decide. An objection is timely if it is postmarked or
20 delivered to both the council secretary and the sponsor of the proposed
21 apprenticeship program no less than twenty-one days before the date of
22 the meeting at which the proposed program is to be considered by the
23 council.

24 (ii) The council may adjudicate objections to a proposed
25 apprenticeship program or refer some or all of the objections, or any
26 question raised by an objection, to the office of administrative
27 hearings for initial adjudication. If the council refers any matter to
28 the office of administrative hearings, the council shall designate or
29 otherwise identify, with particularity, the specific objections or
30 questions to be adjudicated by the office of administrative hearings.
31 A decision by the council to adjudicate or refer an objection or
32 question is not an agency action subject to judicial review under RCW
33 34.05.570.

34 (3) Not less than once a year the apprenticeship council shall make
35 a report to the director of labor and industries of its activities and
36 findings which shall be available to the public.

1 **Sec. 5.** RCW 34.12.080 and 1981 c 67 s 8 are each amended to read
2 as follows:

3 All hearings shall be conducted in conformance with the
4 administrative procedure act, chapter 34.05 RCW. After consultation
5 with affected agencies, the chief administrative law judge may
6 (~~promulgate~~) adopt rules governing the procedural conduct of the
7 hearings. Such rules shall seek the maximum procedural uniformity in
8 agency hearings consistent with demonstrable needs for individual
9 agency variation. If a statute authorizes an agency to designate or
10 otherwise limit the scope of issues or questions to be reviewed in a
11 hearing under this section and RCW 49.04.010, nothing in the rules
12 adopted under this section shall alter, restrict, or otherwise affect
13 that authority of an agency, and the administrative law judge
14 conducting the hearing shall not invite, accept, or consider evidence
15 or argument beyond the scope of the issues or questions so designated
16 or limited.

17 NEW SECTION. **Sec. 6.** A new section is added to chapter 4.84 RCW
18 to read as follows:

19 (1) Notwithstanding any other provisions of this chapter, costs, as
20 defined in RCW 4.84.010, and fees and other expenses as defined in RCW
21 4.84.340, shall be awarded to the prevailing party or substantially
22 prevailing party on appeal before the superior court, court of appeals,
23 or the supreme court, of a decision by the apprenticeship council to
24 approve or not approve a proposed apprenticeship program. The court
25 shall award and determine the amount of fees, expenses, and reasonable
26 attorneys' fees and costs under this section if:

27 (a) The prevailing party on appeal was the prevailing or
28 substantially prevailing party before either (i) the apprenticeship
29 council created under RCW 49.04.010, or (ii) a hearing conducted
30 pursuant to RCW 49.04.010(2)(d) and in conformance with the
31 administrative procedure act, chapter 34.05 RCW; and

32 (b) The prevailing party on appeal was the prevailing party or
33 substantially prevailing party in all prior judicial proceedings.

34 (2) In addition to the prevailing party under subsection (1) of
35 this section, the apprenticeship council is considered a prevailing
36 party if its decision is upheld at superior court and on appeal."

1 Renumber the remaining sections consecutively and correct any
2 internal references accordingly.

SSB 5097 - S AMD 8
By Senator Parlette

NOT ADOPTED 02/02/2005

3 On page 1, line 1 of the title, after "apprenticeship" strike the
4 remainder of the title and insert "opportunities and utilization
5 requirements on public works projects; amending RCW 49.04.010 and
6 34.12.080; adding new sections to chapter 39.04 RCW; adding a new
7 section to chapter 4.84 RCW; and declaring an emergency."

EFFECT: Revises the appeal process for approval of apprenticeship programs.

--- END ---